

REMARKS

Claims 1-34 are pending. Claims 1-34 are rejected. Claims 1, 20, and 31 have been amended. No new matter has been added.

35 U.S.C. 102(e) Rejections

Claims 1-18 and 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al., U.S. Patent No. 5,892,900.

The Examiner is respectfully directed to independent Claim 1, which, as amended, recites that an embodiment of the present invention is directed to:

An automated software distribution method comprising:

- receiving a request to access a software distribution system;

- determining if the requester is a registered user;

- determining if said registered user is authorized to perform a software development scaleable distribution framework activity, said determining comprising examining a transaction right associated with said registered user;

- performing an internal process associated with a software project under development, when said requester is authorized to perform said software development scaleable distribution framework activity;

- determining if said registered user is authorized to perform a commercial scaleable distribution framework activity, said determining comprising examining a transaction right associated with said registered user;

- performing a scaleable software distribution system commerce transaction, when said requester is authorized to perform said commercial scaleable distribution framework activity[-], and

- storing and tracking information associated with said automated software distribution method, wherein said automated software distribution method utilizes a scaleable software distribution framework and object model in which objects are linked together by unique object identifiers.

Claim 31 recites similar limitations. Claims 2-18 and 32-34 are dependent upon independent Claims 1 and 31, respectively, and recite further features of the claimed embodiments.

The present rejection suggests that Ginter discloses every element of Claim 1. Applicant respectfully disagrees, and asserts that Ginter fails to teach or describe storing and tracking information associated with said automated software distribution method, wherein said automated software distribution method utilizes a scaleable software distribution framework and object model in which objects are linked together by unique object identifiers, as claimed.

The present rejection acknowledges, with reference to independent Claim 20, that Ginter fails to recite a scaleable software distribution framework and object model in which objects are linked together by unique object identifiers. Applicants respectfully assert that this rejection is therefore moot, and request that it be withdrawn.

Therefore, Applicant respectfully contends that Ginter fails to anticipate the embodiments of the invention recited in Claims 1 and 31, and that Claims 1 and 31 therefore overcome the basis for rejection under 35 U.S.C. 102(e), and are in condition for allowance. Accordingly, Claims 2-18, dependent upon independent Claim 1, and 32-34, dependent upon independent Claim 31, also overcome the basis for rejection, as being dependent upon allowable base claims.

35 U.S.C. 103(a) Rejections

Claim 19 is rejected as being obvious over Ginter, in view of the prior art.

The Examiner is respectfully directed to Claim 1, reproduced above. Claim 19 is dependent upon independent Claim 1, and recites further features of the claimed embodiments.

As recited above, applicant contends that Ginter fails to anticipate the embodiments of the invention recited in Claim 1. The Examiner's Official Notice of the prior art does not remedy this defect in Ginter. Accordingly, Applicants respectfully contends that Claim 19 overcomes the basis for rejection under 35 U.S.C. 103(a), and is in condition for allowance.

Claims 20-30 are rejected under 35 U.S.C. 103(a) as being obvious over Ginter, in view of Srivastava et al., U.S. Patent No. 6,845,499.

The Examiner is respectfully directed to independent Claim 20, which recites that an embodiment of the present invention is directed to:

An automated software distribution system comprising:

a means for determining if a user is entitled to perform a software development activity, wherein said software development activity is accessible through said automated software distribution system, said determining comprising examining a transaction right associated with said user;

a means for determining if said user is entitled to perform a commercial activity, wherein said commercial activity is accessible through said automated software distribution system, said determining comprising examining a transaction right associated with said user;

a means for communicating information associated with an automated software distribution method;
a means for processing said information associated with said automated software distribution method; and
a means for storing and tracking said information associated with said automated software distribution method, wherein said automated software distribution method utilizes a scaleable software distribution framework and object model in which objects are linked together by unique object identifiers.

Claim 26 recite similar limitations. Claims 21-25 are dependent upon Claim 20, and recite further features of the claimed invention. Claims 27-30 are dependent upon Claim 26, and recite further features of the claimed invention.

The rejection suggests that a combination of the teachings of Ginter and Srivastava described every element of the claimed embodiments recited in Claim 20. Applicants respectfully disagree.

Applicants respectfully assert that even if the combination of Ginter and Srivastava describe the embodiments of the present invention recited in Claim 20, one having ordinary skill in the art would not be motivated to combine these references. Applicants respectfully submit that the rejection is using impermissible hindsight, by utilizing the language of the claim as a blueprint to collect references and then devise a motivation for combining them, where no suggestion or motivation exists in the references cited. Applicants therefore request that the Ginter and Srivastava references be withdrawn, or that a citation to the purported motivation to combine be provided.

Applicants respectfully note that a *prima facie* case of obviousness requires three elements. From MPEP § 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Applicants note that:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)

Applicants further note:

A statement that modifications of the prior art to meet the claimed invention would have been “well within the ordinary skill of the art at the time the claimed invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

Finally, there must be "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references," *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988).

The rejection suggests that one having skill in the art would be motivated to combine Ginter and Srivastava so that the relationship between objects in Ginter's system could be readily determined. Applicants respectfully disagree that such a combination is

motivated by the teachings of Srivastava. The cited elements of Srivastava describe an approach for allowing documents to be interrelated, specifically data documents or action documents (col. 4, ln. 50-64). Srivastava does not motivate or suggest the use of this system in conjunction with an object model for an automated software distribution system, as claimed, nor do Applicants agree that the system of Srivastava would be suitable to achieve results of the claimed embodiments.

Accordingly Applicant contends that Ginter, alone or in combination with Srivastava, fails to anticipate or render obvious the embodiments of the present invention recited in Claim 20 (Claim 26 recites similar limitations). As such, Applicant respectfully asserts that Claims 20 and 26 overcome the basis for rejection under 35 USC 103(a), and are in condition for allowance. Therefore, Claims 21-25, dependent upon Claim 20, and Claims 27-30, dependent upon Claim 26, overcome the basis for rejection, as being dependent upon allowable base claims.

Conclusion

In light of the above-listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims.

The Examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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